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7590 04/01/2010 THOMAS R. LAMPE BIELN, LAMPE & THOEMING 1390 WILLOW PASS ROAD, SUITE 1020 CONCORD, CA 94520				
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* STEVE SANCHEZ

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Appeal 2009-003829  
Application 10/800,896  
Technology Center 2600

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Decided: April 1, 2010

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Before MAHSHID D. SAADAT, CARLA M. KRIVAK,  
and ELENI MANTIS MERCADER, *Administrative Patent Judges*.

MANTIS MERCADER, *Administrative Patent Judge*.

DECISION ON APPEAL

### STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134(a) from the Final Rejection of claims 3, 6, 7, 9-14, 24, 26, and 27.<sup>1</sup> We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

### INVENTION

Figure 3A is reproduced below:

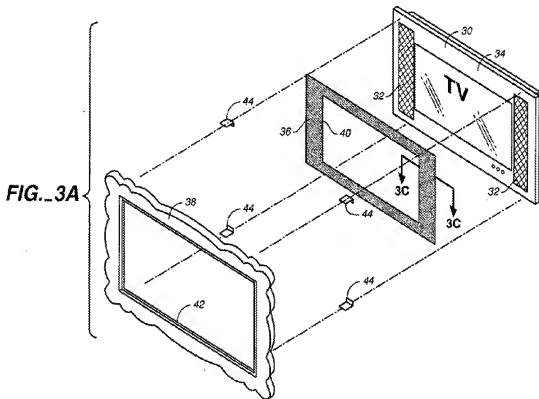


Figure 3A depicts frame 38, mat 36, and TV screen 30.

Appellant's claimed invention is directed to a mat 36 formed of mesh or other sound transmissive material which is disposed over loudspeakers 32 of a flat panel TV screen 30 and blocks the loudspeakers from view through

<sup>1</sup> Claim 28 was allowed (Fin. Action, pg. 7).

the frame opening of frame 38. The flat panel TV screen 30 is observable through the frame opening 42 and mat opening 40. *See generally* Spec. 7.

Claim 24, reproduced below, is representative of the subject matter on appeal:

24. Apparatus for connection to a flat panel TV screen to improve the appearance thereof and to facilitate operation of audio and video functions related to said flat panel TV screen, said flat panel TV screen having a screen viewing area and a housing surrounding the screen viewing area, said apparatus including a frame having a frame top, a frame bottom and frame sides defining a frame opening larger than the size of the screen viewing area of the flat panel TV screen and a mat having a fixed rectangular configuration releasably attached to said frame extending inwardly from the frame top, frame bottom and frame sides along the entire combined length thereof into the frame opening, said mat being formed of material allowing passage therethrough of wireless control transmissions and having a mat opening smaller than said frame opening, and connector structure for connecting said releasably attached frame and mat to said flat panel TV screen, said mat when said releasably attached frame and mat are connected to said flat panel TV screen by said connector structure being maintained in a fixed position and immovable relative to said frame and screen viewing area, extending from said frame toward said screen viewing area and completely surrounding said screen viewing area, said mat being sized and configured to allow viewing of said screen viewing area through said frame opening and through said mat opening, said releasably attached frame and mat cooperable to substantially cover said housing and substantially shield said housing from view by a person observing said screen viewing area while allowing control of audio and video functions by wireless control transmissions through said apparatus.

### THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Kohno	US 5,343,257	Aug. 30, 1994
Grein	US 2001/0033344 A1	Oct. 25, 2001
Kim	US 6,678,152 B2	Jan. 13, 2004
Lin	US 6,826,859 B1	Dec. 7, 2004

The following rejections are before us for review:

1. The Examiner rejected claims 3, 6, 7, 9-14, 24, and 26 under 35 U.S.C. § 103(a) as being unpatentable over Kohno in view of Grein and further in view of Lin.
2. The Examiner rejected claim 27 under 35 U.S.C. § 103(a) as being unpatentable over Grein in view of Kim.

### ISSUES

The pivotal issues are:

1. whether the combination of Kohno in view of Grein and further in view of Lin teaches a “releasably attached” mat to the flat panel TV screen as recited in claim 24; and
2. whether the combination of Grein in view of Kim teaches the limitations of claim 27.

### PRINCIPLES OF LAW

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988).

The test for obviousness is what the combined teachings of the references would have suggested to the artisan. Accordingly, one can not show nonobviousness by attacking references individually where the rejection is based on a combination of references. *In re Keller*, 642 F.2d 413, 426 (CCPA 1981).

## ANALYSIS

### *Claims 3, 6, 7, 9-14, 24, and 26*

Appellant argues (Br. 15), *inter alia*, that Kohno does not teach a mat which is releasably attached to the flat panel screen. We agree with Appellant's argument. Kohno teaches a cover sheet 3 wherein, at its first position as shown in Figure 3, the windows 4a and 4b are in register with each other and screen 2 in its entirety is opened to the front side (col. 4, ll. 32-36). When the cover sheet 3 is moved a predetermined distance equal to the transverse width of the non-common areas 2a as far as a second position as shown in Figure 4, portions 3a and 3b conceal the right and left sides of screen 2, respectively (col. 4, ll. 37-46). In the first position, the transverse width of the screen is W1 and in the second position, the transverse width of the screen is W2 (col. 4, ll. 47-54). In a similar arrangement (Figs. 7-8), including plates 23 and 24, which the Examiner identifies as mats (Ans. 10), the visible screen size is adjusted based on the movement of the plates (i.e., mats). On the record before us we see no reference as to these plates (i.e., mats) being "releasably attached" to the crystal display panel 11 (i.e., flat panel screen). None of the other remaining references of record, either alone or in combination, make up for this deficiency.

For the foregoing reasons, we will reverse the Examiner's rejections of claim 24, and for similar reasons the rejections of claims 3, 6, 7, 9-14, and 26 dependent thereon.

### *Claim 27*

Appellant argues, *inter alia*, that Kim fails to teach a frame releasably connected to a flat panel TV screen (Br. 21). At the outset, we adopt the Examiner's Findings of Fact as outlined in the Answer (Ans. 3-4). We note

that Kim was relied upon for disclosing the missing limitation of a wireless receiver located in the frame and being hidden from an observer (col. 1, ll. 52-65; *see also* col. 1, ll. 26-28). Appellant cannot show nonobviousness by attacking references individually where the rejection is based on a combination of references. *See Keller*, 642 F.2d at 426.

Accordingly, we will affirm the Examiner's rejection of claim 27.

### CONCLUSIONS

1. The combination of Kohno in view of Grein and further in view of Lin does not teach a "releasably attached" mat to the flat panel TV screen as recited.
2. The combination of Grein in view of Kim teaches the limitations of claim 27.

### ORDER

The decision of the Examiner to reject claims 3, 6, 7, 9-14, 24, and 26 is reversed. The decision of the Examiner to reject claim 27 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

### AFFIRMED-IN-PART

babc

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